



Appendix C

AUTHORITY/RESPONSIBILITIES

BUREAU OF DESIGN AND ENVIRONMENT MANUAL

APPENDIX C

AUTHORITY/RESPONSIBILITIES

The proper application of environmental procedures requires an understanding of its governing structure. Appendix C presents the legal authority for environmental regulations and the functional responsibilities of the governmental agencies which implement environmental law.

C-1 LEGAL AUTHORITY

The following subsections present a brief description of the significant Federal and State laws which impact environmental procedures. Where both a Federal and State law apply to a given situation, it is necessary to comply with both.

C-1.01 Federal

C-1.01(a) General Environmental Statutes

1. National Environmental Policy Act. 42 U.S.C. 4321-4347 (P.L. 91-190 and 94-83), 23 CFR 770-772, 40 CFR 1500-1508, Executive Order 11514 as amended by Executive Order 11991 on NEPA responsibilities.

Purpose: Consider environmental factors through systematic interdisciplinary approach before committing to a course of action.

Applicability: All Federal actions.

General Procedures: Procedures set forth in *CEQ Regulations* and 23 CFR 771.

Coordination: Appropriate Federal, State, and local agencies.

2. Section 4(f) of the Department of Transportation Act. 23 U.S.C. 138, 49 U.S.C. 303 (P.L. 100-17, 97-449, and 86-670), 23 CFR 771.135.

Purpose: Preserve publicly owned public parklands, waterfowl and wildlife refuges, and significant historic sites.

Applicability: Significant publicly owned public parklands, recreation areas, wildlife and waterfowl refuges, and all significant historic sites “used” for a highway project.

General Procedures: Specific finding required: (1) selected alternative should avoid protected areas, unless not feasible or prudent; and (2) includes all possible planning to minimize harm.

Coordination: DOI, DOA, HUD, State, or local agencies having jurisdiction, and State Historic Preservation Officer (for historic sites).

3. Economic, Social, and Environmental Effects. 23 U.S.C. 109(h) (P.L. 91-605), 23 U.S.C. 128, 23 CFR 771.

Purpose: To assure that possible adverse, economic, social, and environmental effects of proposed highway projects and project locations are fully considered and that final decisions on highway projects are made in the best overall public interest.

Applicability: Planning and development of proposed projects on any Federal-aid system for which the FHWA approves the plans, specifications, and estimates, or has the responsibility for approving a program.

General Procedures: Identification of social, economic, and environmental effects; consideration of alternative courses of action; involvement of other agencies and the public; systematic interdisciplinary approach. The report required by Section 128, on the consideration given to the social, economic, and environmental impacts of the project, may serve as part of the NEPA compliance document.

Coordination: Appropriate Federal, State, and local agencies.

4. Uniform Relocation Assistance and Real Property Acquisition Act of 1970. 42 U.S.C. 4601 et seq., P.L. 91-646 as amended by the Uniform Relocation Act Amendments of 1987 (P.L. 100-17), 49 CFR 24.

Purpose: To implement the Uniform Act as amended in an efficient manner; to ensure property owners of real property acquired for and persons displaced by Federal-aid projects are treated fairly, consistently, and equitably; and so they will not suffer disproportionate injuries.

Applicability: All projects involving Federal-aid funds.

General Procedures: Procedures set forth in 49 CFR 24.

Coordination: DOT/FHWA has lead responsibility. Appropriate Federal, State, and local agencies.

5. Title VI of the Civil Rights Act of 1964. 42 U.S.C. 2000D et seq. and related statutes, 49 CFR 21, 23 CFR 200.
Purpose: To ensure that no person shall, on the grounds of race, color, national origin, age, sex, or disability, be subjected to discrimination under any program or activity receiving Federal financial assistance.

Applicability: All Federal programs and projects.

General Procedures: Procedures set forth in 49 CFR 21 and 23 CFR 200.

Coordination: FHWA headquarters and field offices.
6. Executive Order 12898: Environmental Justice. Federal Register Vol. 60, No. 125, pp 33896-33903.

Purpose: Avoid Federal actions which cause disproportionately high and adverse impacts on minority and low-income populations with respect to human health and the environment.

Applicability: All Federal programs and projects.

General Procedures: Procedures set forth in DOT Final Environmental Justice Strategy and final DOT Order (Federal Register, Volume 62, No. 72, pp. 18377-18381.)

Coordination: FHWA headquarters and field offices.
7. Public Hearings. 23 U.S.C. 128, 23 CFR 771.111.

Purpose: To ensure adequate opportunity for public hearing(s) on the social, economic and environmental effects of alternative project locations and major design features, as well as the consistency of the project with local planning goals and objectives.

Applicability: Public hearings or hearing opportunities are required for projects described in each State's FHWA-approved public involvement procedures.

General Procedures: Public hearings or opportunities for public hearings during the consideration of highway location and design proposals are conducted as described in the State's FHWA-approved, public involvement procedures. States must certify to FHWA that such hearings or the opportunity for them have been held and must submit a hearing transcript to FHWA.

Coordination: Appropriate Federal, State, and local agencies.
8. Surface Transportation and Uniform Relocation Assistance Act of 1987. Section 123(f) Historic Bridges, 23 U.S.C. 144(o) (P.L. 100-17).

Purpose: Complete an inventory of on-system and off-system bridges to determine their historic significance. Encourage the rehabilitation, reuse, and preservation of historic bridges.

Applicability: Any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

General Procedures: (1) Identify historic bridges on and off system, (2) seek to preserve or reduce impact to historic bridges, and (3) seek a recipient prior to demolition.

Coordination: State Historic Preservation Officer and Advisory Council on Historic Preservation.

9. Surface Transportation and Uniform Relocation Assistance Act of 1987. Section 130 Wildflowers, 23 U.S.C. 319(b) (P.L. 100-17), 23 CFR 752.

Purpose: To encourage the use of native wildflowers in highway landscaping.

Applicability: Native wildflowers are to be planted on any landscaping project undertaken on the Federal-aid highway system.

General Procedures: At least 1/4 of 1% of funds expended on a landscaping project must be used to plant native wildflowers on that project.

Coordination: FHWA - State, Division, Regional contacts.

10. Highway Beautification Act of 1965. 23 U.S.C. 131, 136, 319 (P.L. 89-285), 23 CFR 750, 751, 752.

Purpose: To provide effective control of outdoor advertising and junkyards, to protect the public investment, to promote the safety and recreational value of public travel and preserve natural beauty, and to provide landscapes and roadside development reasonably necessary to accommodate the traveling public.

Applicability: Interstate and primary systems including toll sections thereof.

General Procedures. Procedures set forth in 23 CFR 750, 751, and 752.

Coordination: DOT/FHWA, State, and local agencies.

C-1.01(b) Health

1. Safe Drinking Water Act. 42 U.S.C. 300f - 300j-6 (P.L. 93-523 and 99-339), 23 CFR 650, Subpart E, 40 CFR 141,149.

Purpose: Ensure public health and welfare through safe drinking water.

Applicability: (1) All public drinking water systems and reservoirs (including rest area facilities), (2) actions which may have a significant impact on an aquifer or wellhead protection area which is the sole or principal drinking water source, as designated through the Federal Register process.

General Procedures: (1) Compliance with national primary drinking water regulations, (2) compliance with State wellhead protection plans, (3) compliance with MOAs between EPA and FHWA covering specific sole-source aquifers.

Coordination: EPA and appropriate State agency.

2. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976. 42 U.S.C. 6901, et seq., see especially 42 U.S.C. 6961-6964 (P.L. 89-272, 91-512, and 94-580), 23 CFR 751, 40 CFR 256-300.

Purpose: Provide for the recovery, recycling, and environmentally safe disposal of solid wastes.

Applicability: All projects which involve the recycling or disposal of solid wastes.

General Procedures: Solid wastes will be disposed of according to the rules for specific waste involved.

Coordination - EPA.

3. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 7 U.S.C. 136-136y (P.L. 92-516), 40 CFR 152-171.

Purpose: Control the application of pesticides to provide greater protection to man and the environment.

Applicability: All activities which necessitate use of restricted pesticides.

General Procedures: Using or supervising "restricted use" pesticides will require certification.

Coordination: EPA.

C-1.01(c) Historic and Archeological Preservation

1. Section 106 of the National Historic Preservation Act, as amended. 16 U.S.C. 470f (P.L. 89-665, 91-243, 93-54, 94-422, 94-458, 96-199, 96-244, and 96-515), Executive Order 11593, 23 CFR 771, 36 CFR 60, 36 CFR 63, 36 CFR 800.

Purpose: Protect, rehabilitate, restore, and reuse districts, sites, buildings, structures, and objects significant in American architecture, archeology, engineering, and culture.

Applicability: All properties on or eligible for inclusion on the National Register of Historic Places.

General Procedures: (1) Identify and determine the effects of project on subject properties, (2) coordinate with the State Historic Preservation Officer, other consulting parties, and, as appropriate, the Advisory Council on Historic Preservation, in accordance with 36 CFR 800, (3) avoid or mitigate damages to greatest extent possible.

Coordination: State Historic Preservation Officer, Advisory Council on Historic Preservation, DOI (NPS).

2. Section 110 of the National Historic Preservation Act, as amended. 16 U.S.C. 470h-2 (P.L. 96-515), 36 CFR 65, 36 CFR 78.

Purpose: Protect national historic landmarks and record historic properties prior to demolition.

Applicability: All properties designated as National Historic Landmarks. All properties on or eligible for inclusion on the National Register of Historic Places.

General Procedures: (1) Identify and determine the effects of a project on subject properties, (2) afford Advisory Council an early opportunity to comment, in accordance with 36 CFR 800.

Coordination: State Historic Preservation Officer, Advisory Council on Historic Preservation, DOI (NPS).

3. Archeological and Historic Preservation Act. 16 U.S.C. 469-469c (P.L. 93-291) (Moss-Bennett Act), 36 CFR 66 (draft).

Purpose: Preserving significant historical and archeological data from loss or destruction.

Applicability: Any unexpected archeological resources discovered as a result of a Federal construction project or Federally licensed activity or program.

General Procedures: (1) Notify DOI (NPS) when a Federal project may result in the loss or destruction of a historic or archeological property, (2) DOI and/or the Federal agency may undertake survey or data recovery.

Coordination: DOI (NPS) Departmental consulting archeologist and State Historic Preservation Officer.

4. Archeological Resources Protection Act. 16 U.S.C. 470AA-11 (P.L. 96-95), 18 CFR 1312, 32 CFR 229, 36 CFR 79, 296, 43 CFR 7.

Purpose: Preserve and protect paleontological resources, historic monuments, memorials, and antiquities from loss or destruction.

Applicability: Archeological resources on Federally or Native American-owned property.

General Procedures: (1) Ensure contractor obtains permit, and identifies and evaluates resource. (2) Mitigate or avoid resource in consultation with appropriate officials in the State. (3) If necessary, apply for permission to examine, remove, or excavate such objects.

Coordination: Department or agency having jurisdiction over land on which resources may be situated (BIA, BLM, DOA, DOD, NPS, TVA, USFS, State Historic Preservation Officer, Recognized Indian Tribe, if appropriate).

5. Act for the Preservation of American Antiquities. 16 U.S.C. 431-433 (P.L. 59-209), 36 CFR 251.50-.64, 43 CFR 3.

General Procedures: (1) Notify DOI (NPS) when a Federal project may result in the loss or destruction of a historic or archaeological property, (2) DOI and/or the Federal agency may undertake survey or data recovery.

Coordination: DOI (NPS) Departmental consulting archeologist, State Historic Preservation Officer.

6. American Indian Religious Freedom Act. 42 U.S.C. 1996 (P.L. 95-341).

Purpose: Protect places of religious importance to American Indians, Eskimos, and Native Hawaiians.

Applicability: All projects which affect places of religious importance to Native Americans.

General Procedures: Consult with knowledgeable sources to identify and determine any effects on places of religious importance. Comply with Section 106 procedures if the property is historic.

Coordination: BIA, State Historic Preservation Officer, State Indian liaison, Advisory Council on Historic Preservation, if appropriate.

7. Native American Grave Protection and Repatriation Act. (P.L. 101-601), 43 CFR 10.

Purpose: Protect human remains and cultural material of Native American and Hawaiian groups.

Applicability: Federal lands and Tribal lands.

General Procedures: Consult with Native American group.

Coordination: DOI (NPS), BIA, State Historic Preservation Officer.

C-1.01(d) Land And Water Usage

1. Wilderness Act. 16 U.S.C. 1131-1136, 36 CFR 251, 293, 43 CFR 19, 8560, 50 CFR 35.

Purpose: Preserve and protect wilderness areas in their natural condition for use and enjoyment by present and future generations.

Applicability: All lands designated as part of the wilderness system by Congress.

General Procedures: Apply for modification or adjustment of wilderness boundary by either Secretary of the Interior or Agriculture, as appropriate.

Coordination: Agriculture (USFS), DOI (FWS, NPS, BLM), and State agencies.

2. Wild and Scenic Rivers Act. 16 U.S.C. 1271-1287, 36 CFR 251, 297, 43 CFR 8350.

Purpose: Preserve and protect wild and scenic rivers and immediate environments for benefit of present and future generations.

Applicability: All projects which affect designated and potential wild, scenic, and recreational rivers, and/or immediate environments.

General Procedures: Submit project plans and reports to appropriate Federal agency.

Coordination: DOI (NPS) and/or Agriculture (USFS), State agencies.

3. Land and Water Conservation Fund Act (Section 6(f)). 16 U.S.C. 460/-4 to -11 (P.L. 88-578).

Purpose: Preserve, develop, and assure the quality and quantity of outdoor recreation resources for present and future generations.

Applicability: All projects that impact recreational lands purchased or improved with land and water conservation funds.

General Procedures: The Secretary of the Interior must approve any conversion of property acquired or developed with assistance under this Act to other than public, outdoor recreation use.

Coordination: DOI, State agencies.

4. Executive Order 11990, Protection of Wetlands. DOT Order 5660.1A, 23 CFR 777.

Purpose: To avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.

Applicability: Federally undertaken, financed, or assisted construction, and improvements in or with significant impacts on wetlands.

General Procedures: Evaluate and mitigate impacts on wetlands. Specific finding required in final environmental document.

Coordination: DOI (FWS), EPA, USACOE, NMFS, NRCS, State agencies.

5. Intermodal Surface Transportation Efficiency Act of 1991 (Wetlands Mitigation Banks). Sec. 1006-1007 (P.L. 102-240, 105 STAT 1914), 23 CFR 771.

Purpose: To mitigate wetlands impacts directly associated with projects funded through NHS and STP, by participating in wetlands mitigation banks restoration, enhancement and creation of wetlands authorized under the Water Resources Development Act, and through contributions to Statewide and regional efforts.

Applicability: Federally undertaken, financed, or assisted construction, and improvements in, or with impacts on wetlands.

General Procedures: Evaluate and mitigate impacts on wetlands. Specific finding required in final environmental document.

Coordination: DOI (FWS), EPA, USACOE, NMFS, NRCS, State agencies.

6. Emergency Wetlands Resources Act of 1986. 16 U.S.C. - 3901 note (P.L. 99-645).

Purpose: To promote the conservation of wetlands in the U. S. in order to maintain the public benefits they provide.

Applicability: All projects that may impact wetlands.

General Procedures: (1) Preparation of a National Wetlands Priority Conservation Plan which provides priority with respect to Federal and State acquisition, (2) provide direction for the National Wetlands Inventory Project.

Coordination: FWS.

7. National Trails Systems Act. 16 U.S.C. 1241-1249, 36 CFR 251, 43 CFR 8350.

Purpose: Provide for outdoor recreation needs and encourage outdoor recreation.

Applicability: Projects affecting national recreational, scenic, or historic trails designated by Congress and lands through which such trails pass. National recreation trails and side and connecting trails are proposed by local sponsors and approved by DOI and DOA.

General Procedures: (1) Apply for right-of-way easement from the Secretary of Interior or Agriculture, as appropriate, and (2) ensure that potential trail properties are made available for use as recreational and scenic trails.

Coordination: DOI (NPS) or Agriculture (USFS). Other Federal land management agencies may apply for designation.

8. National Recreational Trails Fund Act of the Intermodal Surface Transportation Efficiency Act of 1991. 16 U.S.C. 1261 (P.L. 102-240).

Purpose: To establish a program to allocate funds to the States to provide and maintain recreational trail and trail-related projects.

Applicability: Trails and trail-related projects which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide comprehensive outdoor recreation plan, as required by the Land and Water Conservation Fund Act.

General Procedures: Project-sponsor applies to the State, and FHWA approves spending for project. The State may be a project sponsor. Assured access to funds is given for motorized, non-motorized, and discretionary recreation uses. States shall give preference to projects with diversified uses.

Coordination: FHWA.

9. Rivers and Harbors Act of 1899. 33 U.S.C. 401, et seq., as amended and supplemented, 23 CFR 650, Subparts D and H, 33 CFR 114-115.

Purpose: Protection of navigable waters in the U.S.

Applicability: Any construction affecting navigable waters and any obstruction, excavation, or filling.

General Procedures: Must obtain approval of plans for construction, dumping, and dredging permits (Section 10) and bridge permits (Section 9).

Coordination: USACOE, USCG, EPA, State agencies.

10. Federal Water Pollution Control Act (1972), as amended by the Clean Water Act (1977 & 1987). 33 U.S.C. 1251-1376 (P.L. 92-500, 95-217, 100-4), DOT Order 5660.1A, FHWA Notices N5000.3 and N5000.4, 23 CFR 650, Subpart B, 771, 33 CFR 209, 320-323, 325, 328, 329, 40 CFR 121-125, 129-131, 133, 135-136, 230-231.

Purpose: Restore and maintain chemical, physical, and biological integrity of the Nation's waters through prevention, reduction, and elimination of pollution.

Applicability: Any discharge of a pollutant into waters of the U.S.

General Procedures: (1) Obtain permit for dredge or fill material from USACOE or State agency, as appropriate (Section 404); (2) permits for all other discharges are to be acquired from EPA or appropriate State agency (Section 402), Phase I - NPDES - Issued for municipal separate storm sewers serving large (over 250,000) populations or medium (over 100,000). Storm water discharges associated with industrial waste. Activities including construction sites > two hectares (five acres); (3) water quality certification is required from State water resource agency (Section 401); and (4) all projects shall be consistent with the State non-point source pollution management program (Section 319).

Coordination: USACOE, EPA, designated State water quality control agency, designated State non-point source pollution agency.

11. Executive Order 11988, Floodplain Management, as amended by Executive Order 12148. DOT Order 5650.2, 23 CFR 650, Subpart A, 771.

Purpose: To avoid the long- and short-term adverse impacts associated with the occupancy and modification of floodplains, and to restore and preserve the natural and beneficial values served by floodplains.

Applicability: All construction of Federal or Federally aided buildings, structures, roads, or facilities which encroach upon or affect the base floodplain.

General Procedures: (1) Assessment of flood hazards, and (2) specific finding required in final environmental document for significant encroachments.

Coordination: FEMA, State and local agencies.

12. National Flood Insurance Act. (P.L. 90-448), Flood Disaster Protection Act: (P.L. 93-234) 42 U.S.C. 4001-4128, DOT Order 5650.2, 23 CFR 650, Subpart A, 7, 23 CFR 771, 44 CFR 59-62, 64-68, 70-71, 75-77.

Purpose: (1) Identify flood-prone areas and provide insurance, and (2) requires purchase of insurance for buildings in special flood-hazard areas.

Applicability: Any Federally assisted acquisition or construction project in area identified as having special flood hazards.

General Procedures: Avoid construction in, or design to be consistent with, FEMA-identified flood-hazard areas.

Coordination: FEMA, State, and local agencies.

13. Marine Protection Research and Sanctuaries Act of 1972, as amended. 33 U.S.C. 1401-1445 (P.L. 92-532, 93-254, 96-572), 33 CFR 320, 330, 40 CFR 220-225, 227-228, 230-231.

Purpose: Regulate dumping of materials into U.S. ocean waters.

Applicability: Any transportation to and dumping into the open sea.

General Procedures: Apply for permit in accordance with existing procedures.

Coordination: EPA, USACOE (if dredge material).

14. Water Bank Act. 16 U.S.C. 1301-1311 (P.L. 91-559, 96-182), 7 CFR 752.

Purpose: Preserve, restore, and improve wetlands of the Nation.

Applicability: Any agreements with landowners and operators in important migratory waterfowl nesting and breeding areas.

General Procedures: Apply procedures established for implementing Executive Order 11990.

Coordination: Secretary of Agriculture, Secretary of Interior.

15. Coastal Zone Management Act of 1972. 16 U.S.C. 1451-1464 (P.L. 92-583, 94-370, 96-464), 15 CFR 923, 926, 930, 23 CFR 771.

Purpose: Preserve, protect, develop, and (where possible) restore and enhance resources of the coastal zone.

Applicability: All projects significantly affecting areas under the control of the State coastal zone management agency for which a plan is approved by the Dept. of Commerce.

General Procedures: Ensure that projects comply with Federal consistency regulations, management measures, and the appropriate approved State plan for coastal zone management programs.

Coordination: State coastal zone management agency and the Dept. of Commerce (OCZM) (NOAA), and EPA.

16. Coastal Zone Management Act Reauthorization Amendments of 1990. 6217(g)

Purpose: Manage non-point source pollution of activities located in coastal zones.

Applicability: All developmental activities located in coastal zone areas will be subject to non-point source control measures developed by the State Coastal Zone Agency.

General Procedures: Ensure projects comply with State CZM plans for controlling non-point sources.

Coordination: State CZM Agency, OCZM (NOAA), EPA.

17. Coastal Barrier Resources Act, as amended. 16 U.S.C. 3501-3510, 42 U.S.C. 4028 (P.L. 97-348), Great Lakes Coastal Barrier Act of 1988 (P.L. 100-707), 13 CFR 116 Subparts D, E, 44 CFR 71, 205 Subpart N.

Purpose: Minimize the loss of human life, wasteful expenditures of Federal revenues, and the damage to fish, wildlife, and other natural resources.

Applicability: Any project that may occur within the boundaries of a designated coastal barrier unit. Exemptions for certain actions are possible.

General Procedures: Coordinate early with the FWS Regional Director. Consult maps that depict the boundaries of each coastal barrier resources system unit.

Coordination: FEMA, DOI (FWS).

18. Farmland Protection Policy Act of 1981. 7 U.S.C. 4201-4209 (P.L. 97-98, 99-198), 7 CFR 658.

Purpose: Minimize impacts on farmland and maximize compatibility with State and local farmland programs and policies.

Applicability: All projects that take right-of-way in farmland, as defined by regulation.

General Procedures: (1) Early coordination with the NRCS, (2) land evaluation and site assessment, and (3) determination of whether or not to proceed with farmland conversion, based on severity of impacts and other environmental considerations.

Coordination: NRCS.

19. Resource Conservation and Recovery Act of 1976 (RCRA), as amended. 42 U.S.C. 6901, et seq. (P.L. 94-580, 98-616), 40 CFR 260-271.

Purpose: Protect human health and the environment, prohibit open dumping, manage solid wastes, and regulate treatment, storage, transportation, and disposal of hazardous waste.

Applicability: Any project that takes right-of-way containing a hazardous waste.

General Procedures: Coordinate with EPA or State agency on remedial action.

Coordination: EPA or State agency approved by EPA, if any.

20. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. 42 U.S.C. 9601-9657 (P.L. 96-510), 40 CFR 300, 43 CFR 11. Superfund Amendments and Reauthorization Act of 1986 (SARA) (P.L. 99-499).

Purpose: Provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

Applicability: Any project that might take right-of-way containing a hazardous substance.

General Procedures: (1) Avoid hazardous waste sites, if possible, (2) check EPA lists of hazardous waste sites, (3) field surveys and reviews of past and present land use, (4) contact appropriate officials if uncertainty exists, (5) if hazardous waste is present or suspected, coordinate with appropriate officials, and (6) if hazardous waste encountered during construction, stop project and develop remedial action.

Coordination: EPA or State agency approved by EPA, if any.

21. Endangered Species Act of 1973, as amended. 16 U.S.C. 1531-1543 (P.L. 93-205, 94-359, 95-632, 96-159, 97-304), 7 CFR 355, 50 CFR 17, 23, 81, 222, 225-227, 402, 424, 450-453.

Purpose: Conserve species of fish, wildlife and plants facing extinction.

Applicability: Any action that is likely to jeopardize continued existence of such threatened/ endangered species or result in destruction or modification of critical habitat.

General Procedures: Consult with the Secretary of the Interior or Commerce, as appropriate.

Coordination: DOI (FWS), Commerce (NMFS).

22. Fish and Wildlife Coordination Act. 16 U.S.C. 661-666(c) (P.L. 85-624, 89-72, 95-616).

Purpose: Conservation, maintenance, and management of wildlife resources.

Applicability: (1) Any project which involves impoundment (surface area of 4.05 hectares [ten acres] or more), diversion, channel deepening, or other modification of a stream or other body of water, and (2) transfer of property by Federal agencies to State agencies for wildlife conservation purpose.

General Procedures: Coordinate early in project development with FWS and State fish and wildlife agency.

Coordination: DOI (FWS), State fish and wildlife agencies.

23. Migratory Bird Treaty Act. 16 U.S.C. 760c-760g

Purpose: To protect most common wild birds found in the United States.

Applicability: Makes it unlawful for anyone to kill, capture, collect, possess, buy, sell, trade, ship, import, or export any migratory bird. Indirect killing of birds by destroying their nests and eggs is covered by the act so construction in nesting areas can constitute a taking.

General Procedures: The FWS is to review and comment on the effects of a proposal that could kill birds, even indirectly.

Coordination: DOI (FWS), State fish and wildlife agencies.

24. Intermodal Surface Transportation Efficiency Act of 1991. Transportation Enhancement Activities: Sec. 1007 (P.L. 102-240).

Purpose: To provide funds for Transportation Enhancement activities, such as landscaping and beautification, rehabilitation and operation of historic transportation facilities.

Applicability: Funds are to be used in all areas except roads classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system.

General Procedures: 10% of STP funds annually apportioned to each State are for Transportation Enhancement activities.

Coordination: FHWA.

25. Intermodal Surface Transportation Efficiency Act of 1991, Sec. 1038 Recycled Paving Material. (P.L. 102-240).

Purpose: To reduce the use of virgin materials used for paving our nation's highways.

Applicability: Each State shall certify that it has satisfied the minimum utilization requirement for asphalt pavement containing recycled rubber.

General Procedures: 20% of asphalt funded with Federal-aid in each State is required to include recycled rubber by 1997.

Coordination: FHWA.

26. Intermodal Surface Transportation Efficiency Act of 1991 Sec. 1047 Scenic Byways Program. (P.L. 102-240).

Purpose: To identify and develop those special scenic byways that offer outstanding scenic, historic, natural, cultural, recreational, or archaeological values.

Applicability: Any public road or highway which meets the criteria for inclusion as a Scenic Byway or an All-American Road.

General Procedures: Nominations may originate from any local government, private group or individual, but must come through the States. Final designations will be made by the Secretary of Transportation.

Coordination: FHWA.

C-1.01(e) Noise

1. Standards. 23 U.S.C. 109(I) (P.L. 91-605), (P.L. 93-87), 23 CFR 772.

Purpose: Promulgate noise standards for highway traffic.

Applicability: All Federally funded projects for the construction of a highway on new location, or the physical alteration of an existing highway which significantly changes either the vertical or horizontal alignment or increases the number of through traffic lanes.

General Procedures: (1) Noise impact analysis. (2) Analysis of mitigation measures. (3) Incorporate reasonable and feasible noise abatement measures to reduce or eliminate noise impact.

C-1.01(f) Air Quality

1. Clean Air Act (as amended) Transportation Conformity Rule. 23 U.S.C. 109(j), 42 U.S.C. 7521(a) (P.L. 101-549), 23 CFR 771, 40 CFR 51 and 93.

Purpose: To insure that transportation plans, programs and projects conform to the State's air quality implementation plans.

Applicability: Non-attainment and maintenance areas.

General Procedures: Transportation plans, programs, and projects must conform with State Implementation Plans (SIPs) that provide for attainment of the national ambient air quality standards.

Coordination: FTA, EPA, MPOs, State Departments of Transportation and State and local Air Quality Control Agencies.

2. Clean Air Act (as amended), Sanctions. 42 U.S.C. 7509, Sec. 179(b), Sec. 110(m) (P.L. 101-549), 40 CFR 52.

Purpose: To restrict Federal funding and approvals for highway projects in States that fail to submit or implement an adequate State Implementation Plan (SIP).

Applicability: In non-attainment areas 24 months after EPA has identified a SIP deficiency. May be applied Statewide under separate rulemaking.

General Procedures: (1) After EPA finds that a State failed to submit or implement a SIP, that the SIP is incomplete, or disapproves a SIP, an 18-month time clock begins. (2) Unless deficiencies are corrected within 18 months, 2:1 offset sanctions are applied. Six months later, highway sanctions are applied.

Coordination: EPA.

3. Intermodal Surface Transportation Efficiency Act of 1991, Congestion Mitigation and Air Quality Improvement Program (CMAQ). Sec 1008, 23 U.S.C. 149.

Purpose: To assist non-attainment and maintenance areas in reducing transportation-related emissions.

Applicability: Transportation programs or projects in non-attainment areas and areas redesignated to maintenance that are likely to contribute to the attainment or maintenance of the NAAQS.

General Procedures: (1) Project sponsor (transit operator, municipal office, etc.) develops formal proposal to improve air quality. (2) Submit to the MPO, State for

evaluation and approval. (3) Included in the TIP and approved as eligible by FTA and FHWA in consultation with EPA.

Coordination: FTA, EPA, MPOs, State Departments of Transportation, and State and local Air Quality Control Agencies.

C-1.02 State

In addition to the Federal environmental legislation, the State of Illinois has enacted considerable State legislation for the implementation of environmental requirements. The following briefly discusses the significant State laws on environmental policies:

1. Interagency Wetland Policy Act of 1989, 20 Illinois Compiled Statutes (ILCS) 830/1-1, et seq., (P.A. 86-157). This Act establishes a State goal of “no net loss” of wetlands acreage and their functional values due to State or State-supported activities. It provides that State agencies shall preserve, enhance, and create wetlands where necessary to increase the quality and quantity of the State’s wetlands resource base. The Act establishes a State wetlands mitigation policy and requires designated State agencies to prepare Agency Action Plans for implementation procedures. The Act authorizes State agencies to establish wetlands compensation accounts, and it requires agencies to consider the avoidance and minimization of adverse impacts to wetlands and to provide compensation for unavoidable adverse impacts with a schedule of compensation ratios. The Act is administered by IDNR.
2. Illinois Historic Preservation Act, 20 ILCS 3410/1, et seq. This Act establishes the Illinois Register of Historic Places. It stipulates that no person shall demolish, cause to be demolished, or permit or order the demolition of any Critical Historical Feature of a Registered Illinois Historic Place unless the Director of the Illinois Historic Preservation Agency (IHPA) has issued a Certificate of Compliance stating that the requirements of the Act have been satisfied and setting forth any conditions agreed to. The Act provides that public funds shall not be used in any project that will have an adverse economic or environmental impact on a Registered Illinois Historic Place unless the Director of the IHPA determines:
 - the project is necessary to provide an important public service or benefit,
 - the project cannot be implemented practically to avoid the adverse effect, and
 - the adverse effect is minimized to the maximum extent feasible.
3. Illinois State Agency Historic Resources Preservation Act, 20 ILCS 3420/1, et seq. (P.A. 86-707). This Act establishes a program whereby State agencies (1) administer historic resources under their control to foster and enhance their availability to future generations; (2) prepare policies and plans to contribute to the preservation, restoration, and maintenance of State-owned historic resources for the inspiration and benefit of the people; and (3) consult with the Illinois Historic Preservation Agency to ensure that State

projects consider the preservation and enhancement of State-owned and non-State-owned historic resources. The Act provides that consultation is not required for actions being reviewed in accordance with Section 106 of the National Historic Preservation Act.

4. Archaeological and Paleontological Resources Protection Act, 20 ILCS 3435/01, et seq., (P.A. 86-459, 86-707). This Act reserves to the State of Illinois the right of regulating, exploring, excavating, or surveying, through the Historic Preservation Agency, all archaeological and paleontological resources found upon State lands. It requires a permit from the Historic Preservation Agency for conducting any of these activities on public lands. The Act prohibits any person from knowingly disturbing any protected archaeological or paleontological resource or knowingly offering for sale or exchange any object collected or excavated in violation of the Act.
5. Soil and Water Conservation Districts Act of 1937, 70 ILCS 405/1, et seq., as amended. This Act establishes a policy to strengthen and extend erosion and sedimentation control activities for both rural and urban lands. It provides for establishing and implementing, through the Illinois Department of Agriculture and Soil and Water Conservation Districts and in cooperation with units of local government, school districts, other political subdivisions of the State, agencies of the State and other public and private entities, a Statewide comprehensive and coordinated erosion and sediment control program to conserve and protect land, water, air, and other resources. The Act requires State agencies to cooperate with the Illinois Department of Agriculture and Soil and Water Conservation Districts in implementing programs undertaken pursuant to the Act.
6. Illinois Environmental Protection Act of 1970, 415 ILCS 5/8, et seq.(P.A. 76-2429). This Act establishes a unified, Statewide regulatory program to restore, protect, and enhance the quality of the environment and to ensure that adverse effects upon the environment are fully considered and borne by those who cause them. The Act implements permit and control programs for air pollution, water pollution, public water supplies, land pollution, noise, atomic radiation, used tires, potentially infectious medical wastes, and petroleum underground storage tanks.
7. Illinois Groundwater Protection Act, 415 ILCS 55/1, et seq. This Act establishes a State policy to restore, protect, and enhance the groundwater of the State as a natural and public resource, to prevent waste and degradation of groundwater resources, and to manage the underground water resource to allow for maximum benefit of the people of the State. The Act establishes within State government an Interagency Committee on Groundwater which is responsible for reviewing and coordinating the State's policy on groundwater protection and for reviewing various aspects of the State's groundwater protection program and making recommendations on those aspects. The Act authorizes the establishment of an education program, a data collection program, and appropriate regulations for groundwater protection.

8. Agricultural Areas Conservation and Protection Act of 1979, 505 ILCS 5/1, et seq (P.A. 81-1173). This Act establishes a program whereby agricultural land may be protected and enhanced through designation as an "Agricultural Area." It provides that no land within an Agricultural Area shall be used for purposes other than agricultural production. The Act provides that any person may petition for withdrawal of land from a designated Agricultural Area, and this person must submit documentation of the proposed alternative use for the land, an explanation of the need for a change from the current use of the land, and an explanation of why land outside the Agricultural Area would not be suitable for the proposed use. The Act indicates that the County Board either accepts or rejects the petition for withdrawal of land after a hearing and an opportunity for review and comment by the county Agricultural Areas Committee and regional and county planning commissions, if any.
9. Farmland Preservation Act of 1982, 505 ILCS 75/1, et seq. (P.A. 82-945). This Act requires designated agencies to prepare policy statements and working agreements with the Illinois Department of Agriculture specifying the policy of the agencies toward farmland preservation and the administrative process used to implement that policy. It requires agencies to provide notice to the Illinois Department of Agriculture of projects that may lead to agricultural land conversion unless such projects are exempted from review by an agency's cooperative working agreement. The Act provides that the Department of Agriculture shall determine whether an agency's projects comply with its policy statement and cooperative working agreement and that the Department of Agriculture shall conduct a study of the agricultural impacts for any project that does not comply.
10. Endangered Species Protection Act of 1972, 520 ILCS 10/1, et seq., (P.A. 77-2186). This Act protects State-listed animals and plants from unauthorized actions. It requires agencies of State and local governments to evaluate, through a consultation process with the Illinois Department of Natural Resources, whether actions authorized, funded, or implemented by them are likely to jeopardize the continued existence of Illinois-listed threatened or endangered species or are likely to result in the destruction or adverse modification of the designated essential habitat of such species. When an agency has so consulted, it shall be deemed to have complied with its obligations under the Act, provided that the agency action shall not result in the killing or injuring of any Illinois-listed animal species.
11. Illinois Natural Areas Preservation Act, 525 ILCS 30/1, et seq., (P.A. 82-445). This Act establishes provisions for a system of dedicated nature preserves and registered natural areas. It provides that dedicated nature preserves may not be acquired under power of eminent domain or by other means for any other use except another public use and except upon approval by the Illinois Nature Preserves Commission, the Governor, and any public owner of a dedicated interest therein after a finding by the Commission of the existence of an imperative and unavoidable public necessity for such other public use, and upon such terms and conditions as the Commission may determine, except as may otherwise be provided in the instrument of dedication. The Act requires the Commission

to give public notice of the proposed action for which a finding of an imperative and unavoidable public necessity is being considered and to provide an opportunity for any person to request the holding of a public meeting and to be heard at such public meeting. It provides for promoting, by advice and other assistance, the protection of registered natural areas.

12. Regulation of Rivers, Lakes, and Streams Act, 615 ILCS 5/4, et seq. This Act assigns to the Office of Water Resources of the Department of Natural Resources jurisdiction over public waters of the State. It provides for general supervision of such waters to ensure that none are encroached upon or wrongfully seized by any private interest in any way. The Act establishes authority for requiring permits from the IDNR for actions affecting public waters, and it requires permits from the IDNR for construction within defined floodplains in the State.
13. Preservation of Illinois Farmland, Illinois Executive Order No. 4 (1980). This Order establishes a State policy to protect, through the administration of its current programs and regulations, the State's prime agricultural land from irreversible conversion to uses which result in its loss as an environmental or essential food production resource. It designates the Illinois Department of Agriculture as the lead for implementing the policy and requires designated agencies to prepare Agricultural Land Preservation Policies. The policies must include an analysis of the impact on agricultural land conversions caused by their programs, regulations, procedures, and operations, and they also must detail measures that can be implemented that will mitigate conversions to the maximum extent practicable. The policies must provide a greater degree of protection for Classes I, II, and III lands than for Classes IV through VIII. The Order provides that the Department of Agriculture will analyze State-funded capital projects that impact farmland conversion and advise the Governor's Office on the consistency of agency actions with the policy established by the Executive Order.

C-2 FUNCTIONAL RESPONSIBILITIES

Many governmental agencies, both Federal and State, have various functional responsibilities related to the implementation of environmental laws, regulations, policies, and procedures. This section briefly describes the functional responsibilities for these agencies, and it provides an address and phone number for preliminary contacts.

C-2.01 Federal

The following briefly describes the functional responsibilities of the major Federal agencies in the implementation of environmental procedures:

1. Council on Environmental Quality (CEQ). The Council is composed of three members appointed by the President which maintains a quality awareness of the nation's environmental resources. The CEQ oversees the implementation of NEPA by issuing regulations (40 CFR 1500-1508) to guide all Federal agencies.

Address: Executive Director
Council on Environmental Quality
722 Jackson Place NW
Washington, D.C. 20006

Telephone No.: (202) 633-7032

2. Environmental Protection Agency (EPA). EPA is responsible for determining which pollutants and what concentrations are harmful to the health and safety of the human population. It establishes minimum safe requirements for the concentration of pollutants, and it establishes procedures for achieving and maintaining these concentration levels. For the CEQ, EPA conducts quality control tests on the proper implementation of NEPA. EPA issues the basic air quality, water quality, hazardous waste, and solid waste regulations for nationwide implementation.

Address: Senior Environmental Specialist
Environmental Protection Agency
Region 5 Office
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590

Telephone No.: (312) 886-7342

3. Federal Highway Administration (FHWA). The Federal Highway Administration (FHWA) administers the Federal-aid program that funds eligible highway improvements nationwide. Its basic responsibility is to ensure that the State DOT's comply with all applicable Federal laws in their expenditure of Federal funds and to ensure that the State DOT's meet the applicable requirements for proposed highway projects. This

includes all applicable environmental laws, regulations, policies, and procedures. FHWA maintains a Division Office within each State, and this is the primary point of contact for a State DOT. FHWA also maintains four regional Resource Centers to provide technical program assistance to the FHWA Division Offices and their partners.

Address: Environmental Engineer
Illinois FHWA Division Office
3250 Executive Park Drive
Springfield, Illinois 62703

Telephone No.: (217) 492-4988

Address: Environmental Program Specialist
FHWA Midwestern Resource Center
19900 Governor's Drive, Suite 301
Olympia Fields, Illinois 60461-1021

Telephone No.: (708) 283-3500

4. Federal Transit Administration (FTA). As an agency of the U.S. Department of Transportation, FTA administers the national transit program and all federal laws, regulations, policies, and procedures applicable to the use of Federal transit funds. This includes those that pertain to the environment.

Address: Regional Administrator, Federal Transit Administration
200 West Adams Street, Room 2410
Chicago, Illinois 60606-5232

Telephone No.: (312) 353-2789

5. US DOT - Chicago Metropolitan Office. FHWA and FTA jointly operate four metropolitan offices around the country that are extensions of their respective Division and Regional offices. These offices provide assistance, guidance, and information on Federal transportation programs to local, State, and other Federal agencies in the affected metropolitan areas.

Address: US DOT Chicago Metropolitan Office
200 West Adams Street, Room 2410
Chicago, Illinois 60606-5232

Telephone No.: (312) 353-1616

6. US Coast Guard (USCG). As an agency of the US Department of Transportation, the USCG administers the nation's waterways for vessels operating on navigable streams. Its responsibilities include the issuance of permits for bridges over navigable streams (Section 9 Permit).

Address: Chief, Bridge Branch
Ninth District, U.S. Coast Guard
1240 E. 9th
Cleveland, Ohio 44199-2060

Telephone No.: (216) 522-3993

Address: Chief, Bridge Branch
Second District, U.S. Coast Guard
1222 Spruce Street
St. Louis, Missouri 63103-2398

Telephone No.: (314) 539-3900

7. US Army Corps of Engineers (USACOE). The USACOE is responsible for maintaining the shipping lanes on navigable waters and the permitting process for the wetlands program (Section 404 Permit), and it operates many of the dams on navigable waters.

Address: Regulatory Branch
U.S. Army Corps of Engineers
Clock Tower Building
Rock Island, Illinois 61204-2004

Telephone No.: (309) 794-5380

Address: Regulatory Branch
U.S. Army Corps of Engineers
CENED-CO
111 North Canal Street
Chicago, Illinois 60606

Telephone No.: (312) 353-6428

Address: Regulatory Branch
U.S. Army Corps of Engineers
1222 Spruce Street
St. Louis, Missouri 63103-2833

Telephone No.: (314) 331-8582

Address: Regulatory Branch
U.S. Army Corps of Engineers
600 Dr. Martin Luther King Jr. Place
Louisville, Kentucky 40201

Telephone No.: (502) 582-5452

Address: Regulatory Branch
U.S. Army Corps of Engineers
167 North Main Street B02
Memphis, Tennessee 38103

Telephone No.: (901) 544-3471

8. Department of the Interior (DOI). The DOI includes the National Park Service, US Fish and Wildlife Service, Bureau of Indian Affairs, US Geological Survey, Bureau of Reclamation, and Bureau of Land Management. It is responsible for preserving and protecting the natural resources of the nation. Contacts are made to the individual agencies within USDOI, as presented in the following.

- a. National Park Service (NPS). The NPS is responsible for administering the national parks, monuments, and parkways, and it is responsible for the national historic and archaeological programs including the National Register of Historic Places. The NPS maintains the national recreational programs including Section 6(f) of the Land and Water Conservation Fund Act. The NPS also administers the wild and scenic rivers program except for rivers on lands of the US Forest Service.

Address: Outdoor Recreation Planner
National Park Service
1709 Jackson Street
Omaha, Nebraska 68102

Telephone No.: (402) 221-3431

- b. US Fish and Wildlife Service (FWS). The FWS administers the national freshwater fish program, wildlife programs and threatened and endangered species program.

Address: US Fish and Wildlife Service
4469 48th Avenue Ct.
Rock Island, Illinois 61201

Telephone No.: (309) 793-5800

Address: US Fish and Wildlife Service
1000 Hart Road
Barrington, Illinois 60010

Telephone No.: (847) 318-2253

Address: US Fish and Wildlife Service
Rural Route 3, Box 328
Marion, Illinois 62959

Telephone No.: (618) 997-5491

9. US Forest Service (USFS). The USFS administers the national forests.

Address: Land Use Section
Shawnee National Forest
901 South Commercial Street
Harrisburg, Illinois 62946

Telephone No.: (618) 253-7114

10. Natural Resources Conservation Service (NRCS). Formerly the Soil Conservation Service, the NRCS maintains national farm soil maps and determines which farmlands are prime and unique. The contact will be the local county NRCS agent. AD-1006 forms should be sent to the State NRCS office at the following address:

Address: US Department of Agriculture
NRCS
Attention: State Soil Scientist
1902 Fox Drive,
Champaign, Illinois 61820

C-2.02 State

The following briefly describes the functional responsibilities of the major State agencies in the implementation of environmental procedures:

1. Illinois Department of Transportation (IDOT). Within the Division of Highways, the program development offices in the nine districts are responsible for project development and the accompanying environmental documentation addressing the potential project impacts. The central Bureau of Design and Environment supports the environmental studies by providing environmental expertise and policy guidance, by securing appropriate environmental field surveys and data collection upon the request of the districts, by accomplishing and facilitating coordination with resource and regulatory agencies, and by reviewing and commenting on preliminary and final environmental documentation.
2. Illinois Department of Natural Resources (IDNR). IDNR includes the former Illinois Department of Conservation, the former Illinois Department of Mines and Minerals, the former Division of Water Resources from IDOT, the Illinois Natural History Survey, the

Illinois State Geological Survey, and the Illinois State Water Survey. IDNR is responsible for reviewing proposed projects, as applicable, to ensure compliance with the Illinois Endangered Species Protection Act, the Illinois Natural Areas Preservation Act, and the Illinois Interagency Wetland Policy Act. The agency also reviews and comments on projects, as appropriate, regarding the following additional resources:

- streams,
- forests/trees,
- prairie/savanna areas,
- IDNR properties,
- nature preserves,
- natural area inventory sites,
- sites included in the Illinois Register of Land and Water Reserves, and
- Office of Water Resources permits.

Address: IDNR
One Natural Resources Way
Springfield, Illinois 62702-1271

Telephone No.: (217) 785-8290 (Natural Resource Review and Coordination Division)

3. Illinois Environmental Protection Agency (IEPA). IEPA is responsible for issuing Section 401 Water Quality Certification on Section 404 permits. The Agency also reviews and comments on projects, as appropriate, relative to the following issues:

- air quality/conformity,
- water quality,
- land pollution (including hazardous and special wastes),
- noise, and
- underground storage tanks.

Address: IEPA
1021 North Grand Avenue East
Springfield, Illinois 62702

Transmittals sending environmental documents to IEPA for review should be addressed to the Director of the IEPA at the above office location.

Telephone No.: (217) 782-3397 (General Number)

4. Illinois Department of Agriculture (IDOA). IDOA reviews projects for impacts on farmland conversion to ensure compliance with the Illinois Farmland Preservation Act and Illinois Executive Order Number 4 (1980) for the preservation of Illinois farmland. This agency also completes the State component of the AD-1006 form in accordance with the regulations of the USDA Natural Resources Conservation Service.

Address: IDOA
State Fairgrounds
P. O. Box 19281
Springfield, Illinois 62794

Telephone No.: (217) 782-2172 (General Number)

5. Illinois Historic Preservation Agency (IHPA). The Director of IHPA is designated as the State Historic Preservation Officer (SHPO). The Agency reviews projects for impacts to historical, architectural, archaeological, and paleontological resources to ensure compliance with Section 106 of the National Historic Preservation Act and the following State Acts:

- Illinois Historic Preservation Act (Illinois Register of Historic Places),
- Illinois State Agency Historic Resources Preservation Act, and
- Archaeological and Paleontological Resources Protection Act.

Address: IHPA
500 East Madison Street
Springfield, Illinois 62701

Telephone No.: (217) 782-4512 (General Number)